

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

VIRGIL P. WOOD JR.,

Plaintiff,

v.

**NANCY A. BERRYHILL,
Acting Commissioner of Social Security
Administration,**

Defendant.

Case No. CIV-17-440-CG

ORDER

On November 30, 2017, the Court entered an Order and a Judgment reversing the decision of the Acting Commissioner and remanding this case for further proceedings. *See* Doc. Nos. 21, 22. Plaintiff Virgil P. Wood Jr. now requests an award of attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. *See* Pl.'s Mot. Att'y Fees (Doc. No. 23). Defendant has responded that she has no objection to the requested fee award. *See* Def.'s Resp. (Doc. No. 24).

Having considered Plaintiff's unopposed request and the relevant record, the Court finds that: "(1) [P]laintiff is a 'prevailing party'; (2) the position of the United States was not 'substantially justified'; and (3) there are no special circumstances that make an award of fees unjust" in this case. *Hackett v. Barnhart*, 475 F.3d 1166, 1172 (10th Cir. 2007) (quoting 28 U.S.C. § 2412(d)(1)(A)). The Court therefore GRANTS Plaintiff's request (Doc. No. 23) and awards fees in the amount of \$3951.60, with said amount to be paid directly to Plaintiff and sent in care of Marianna E. McKnight, 2448 East 81st Street, Suite

2038, Tulsa, Oklahoma, 74137. If attorney's fees are also awarded under 42 U.S.C. § 406(b), Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 9th day of March, 2018.



CHARLES B. GOODWIN
UNITED STATES MAGISTRATE JUDGE